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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-844]

Narrow Woven Ribbons with Woven Selvedge from Taiwan: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Department) is conducting the first administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (narrow woven ribbons) from Taiwan. The sole mandatory respondent in this administrative review, Hubschercorp, did not respond to the Department's questionnaire. As a result, we have preliminarily assigned Hubschercorp a margin based on adverse facts available (AFA). The period of review (POR) is September 1, 2010, through August 31, 2011.

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Holly Phelps, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0656.

SUPPLEMENTARY INFORMATION:

Background

In September 2010, the Department published in the Federal Register an antidumping duty order on narrow woven ribbons from Taiwan.¹ On September 2, 2011, the Department published in the Federal Register a notice of opportunity to request an administrative review of the antidumping duty order on narrow woven ribbons from Taiwan for the period September 1, 2010, through August 31, 2011.² In response to a timely request from the petitioner, Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, Inc., pursuant to 19 CFR 351.213(b)(1), the Department initiated an administrative review for the following ten companies: 1) Apex Ribbon; 2) Apex Trimmings; 3) FinerRibbon.com; 4) Hubschercorp; 5) Intercontinental Skyline; 6) Multicolor Inc.; 7) Pacific Imports; 8) Papillon Ribbon & Bow (Canada); 9) Shienq Huong Enterprise Co., Ltd. / Hsien Chan Enterprise Co., Ltd. / Novelty Handicrafts Co., Ltd.; and 10) Supreme Laces, Inc.³

In November 2011 and January 2012, we requested that each company named in the Initiation Notice provide data on the quantity and value (Q&V) of its exports of subject merchandise to the United States during the POR. We received responses to the Q&V questionnaires during the period November 2011 through January 2012.

¹ See Narrow Woven Ribbons with Woven Selvedge from Taiwan and the People's Republic of China: Antidumping Duty Orders, 75 FR 53632 (Sept. 1, 2010), as amended in Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders, 75 FR 56982 (Sept. 17, 2010).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review, 76 FR 54735, 54736 (Sept. 2, 2011).

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 76 FR 67133, 67138 (Oct. 31, 2011); and Correction to Initiation of 2010-2011 Antidumping Duty Administrative Review: Narrow Woven Ribbons With Woven Selvedge From Taiwan, 77 FR 82 (Jan. 3, 2012) (Initiation Notice).

On January 30, 2012, the petitioner withdrew its request for an administrative review for all companies named in the Initiation Notice except Hubschercorp. On this same date, we issued the antidumping duty questionnaire to Hubschercorp.

On February 17, 2012, we rescinded the review with respect to the following companies:

1) Apex Ribbon; 2) Apex Trimmings; 3) FinerRibbon.com; 4) Intercontinental Skyline; 5) Multicolor Inc.; 6) Pacific Imports; 7) Papillon Ribbon & Bow (Canada); 8) Shienq Huang Enterprise Co., Ltd. / Hsien Chan Enterprise Co., Ltd. / Novelty Handicrafts Co., Ltd.; and 9) Supreme Laces, Inc.⁴

Also on February 17, 2012, Hubschercorp contacted the Department to inform us that it was having difficulty in responding to the Department's questionnaire and that it may not be able to participate in this review. On February 21, 2012 (i.e., the due date for the first portion of the questionnaire response), we followed up with Hubschercorp to determine whether the company intended to participate in the administrative review. On February 24, 2012, Hubschercorp informed the Department that it did not intend to respond to the questionnaire or participate in the administrative review.⁵ Therefore, in accordance with section 776(a)(2)(A), (B) and (C) of the Tariff Act of 1930, as amended (the Act), for these preliminary results, the Department has applied facts otherwise available with an adverse inference when determining Hubschercorp's rate. See the section "Use of Facts Otherwise Available and AFA," below, for further discussion.

⁴ See Narrow Woven Ribbons With Woven Selvedge From Taiwan: Rescission, in Part, of Antidumping Duty Administrative Review, 77 FR 9624 (Feb. 17, 2012).

⁵ See the February 27, 2012, Memorandum to the File From Elizabeth Eastwood, Senior Analyst, and Holly Phelps, Analyst, entitled, "Phone Conversation With Hubschercorp Regarding the 2010-2011 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan" (Hubschercorp Memo), for further discussion of our correspondence with Hubschercorp.

Scope of the Order

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene terephthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single-faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;

- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an “ornamental trimming;”
- be wound on spools; attached to a card; hanked (i.e., coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

- (1) formed bows composed of narrow woven ribbons with woven selvedge;
- (2) “pull-bows” (i.e., an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
- (3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (i.e., filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

(4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;

(5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;

(6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;

(7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;

(8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;

(9) narrow woven ribbons constructed from pile fabrics (i.e., fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

(10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages

such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a “belly band” around a pair of pajamas, a pair of socks or a blanket;

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and

(13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

Use of Facts Otherwise Available and AFA

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information

within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

As noted in the “Background” section, above, Hubschercorp did not respond to the Department’s questionnaire in this administrative review and informed the Department that it did not intend to participate in this review. See Hubschercorp Memo. As a result, Hubschercorp did not provide requested information that is necessary for the Department to calculate an antidumping duty rate for the company in this administrative review. Therefore, in reaching these preliminary results, pursuant to section 776(a) of the Act, the Department has based Hubschercorp’s antidumping duty rate on facts otherwise available on the record.

By only responding to the Department’s Q&V questionnaire and failing to respond to the Department’s antidumping questionnaire, Hubschercorp withheld requested information and significantly impeded this proceeding. Thus, pursuant to section 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available is appropriate.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting

from the facts otherwise available. See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India, 70 FR 54023, 54025-26 (Sept. 13, 2005); Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil, 67 FR 55792, 55794-96 (Aug. 30, 2002). Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-99. Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.” See Antidumping Duties; Countervailing Duties; Final rule, 62 FR 27296, 27340 (May 19, 1997); see also Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (Nippon). We preliminarily find that Hubschercorp did not act to the best of its ability in this administrative review, within the meaning of section 776(b) of the Act, because it failed to respond to the Department’s requests for information and provide timely information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to this company. See Nippon, 337 F.3d at 1382-83.

Selection of the AFA Rate

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record.

The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to select the highest rate on the record of the proceeding and to ensure

that the margin is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65084 (Nov. 7, 2006).

As a result, we have preliminarily assigned to Hubschercorp a rate of 137.20 percent, which is the highest rate alleged in the petition, as noted in the initiation of the less-than-fair-value (LTFV) investigation. See Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations, 74 FR 39291 (Aug. 6, 2009) (LTFV Initiation).

Corroboration of Secondary Information

Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department’s regulations provide that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. See 19 CFR 351.308(d); see also SAA at 870. To be considered corroborated, the Department must find the secondary information is both reliable and relevant.⁶

⁶ See, e.g., SAA at 870; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (Nov. 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (Mar. 13, 1997).

To determine whether the information is reliable, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of these preliminary results. See LTFV Initiation at 39294-39295. We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of these preliminary results. Based on our examination of the information, as discussed in detail in LTFV Initiation, we consider the petitioner's calculation of the export price and normal value to be reliable. Therefore, because we confirmed the accuracy and validity of the information underlying the calculation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine that the margins in the petition are reliable for the purposes of this administrative review.

To determine the relevance of the petition margin, we compared it to the model-specific rates calculated for the respondents in the LTFV investigation. We find that this margin is relevant because this is the first review under this order (i.e., only one segment removed from the LTFV investigation), and the petition rate fell within the range of model-specific margins calculated for two of the three mandatory respondents in the LTFV investigation. See e.g., Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review, 73 FR 12088, 12092 (Mar. 6, 2008), unchanged in Certain Frozen Warmwater Shrimp From Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 73 FR 50933 (Aug. 29, 2008). See also the Memorandum to the File from Holly Phelps, Analyst, entitled, "Placement of Proprietary Model-Specific Margins from the Less-Than-Fair-Value Investigation on the Record and

Corroboration of Adverse Facts Available Rate for the Preliminary Results in the 2010-2011 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan,” dated May 29, 2012 (Corroboration Memo). Therefore, we have determined that the 137.20 percent margin is appropriate as AFA and are assigning it to Hubschercorp.

Further, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company’s uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. We were unable to find any information that would discredit the selected AFA rate.

Based on the above, for these preliminary results, the Department finds the highest rate derived from the petition (i.e., 137.20 percent) is therefore corroborated to the extent practicable. Thus, we have assigned Hubschercorp this rate as AFA in this administrative review. For further discussion of the corroboration of this rate, see the Corroboration Memo.

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for the period September 1, 2010, through August 31, 2011:

Manufacturer/ExporterPercent Margin

Hubschercorp

137.20

Disclosure and Public Hearing

The Department will disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than the later of 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. See 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities. See 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, filed electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and 3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues

raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1). The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

For Hubschercorp's U.S. sales, we will base the assessment rate assigned to the corresponding entries on AFA, determined as noted above.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable. See section 751(a)(2)(C) of the Act.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for Hubschercorp will be that established in the final results of this review; 2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; 3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent

period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.37 percent, the all-others rate made effective by the Notice of Final Determination of Sales at Less than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan, 75 FR 41804 (July 19, 2010). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Paul Piquado
Assistant Secretary
for Import Administration

____ May 29, 2012 _____
(Date)